

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE <b>K</b>		PAGE OF PAGES <b>1   4</b>		
2. AMENDMENT/MODIFICATION NO.  0010		3. EFFECTIVE DATE  July 1, 2002		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)	
6. ISSUED BY  DEFENSE ENERGY SUPPORT CENTER 8725 JOHN J KINGMAN RD SUITE 4950 FORT BELVOIR VA 22060-6222 BUYER/SYMBOL – SHARON A. WARD/DOTTIE GHEEN PHONE - (703) 767-9550/9542  P.P. 3.23		CODE  SP0600		7. ADMINISTERED BY (If other than Item 6)		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (NO., street, city, county, State, and ZIP Code)				X		9a. AMENDMENT OF SOLICITATION NO.  SP0600-02-R-0037	
						9b. DATED (SEE ITEM 11)  MARCH 13, 2002	
						10a. MODIFICATION OF CONTRACT/ORDER NO.	
						10b. DATED (SEE ITEM 13)	
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>							
<p>[ X ] The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers [ X ] is extended, [ ] is not extended ONLY for items 111-28, 111-24, 560-10, 740-52, C50-52, E74-E8, 318-13, 325-461, 446-46, 451-46, 562-08, 746-46, 825-461, C50-521, D10-08, E05-26, F38-E8, M57-28, 780-12, 780-13, 780-26, 788-13 AND 788-26 until 11 July 2002 AT 3:00 PM FT. BELVOIR TIME.</p> <p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning <u>  1  </u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers.</p> <p><b>FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.</b> If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>							
12. ACCOUNTING AND APPROPRIATION DATA (If required)  N/A							
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER (Specify type of modification and authority)							
E. <b>IMPORTANT:</b> Contractor [ ] is not, [ X ] is required to sign this document and return <u>  1  </u> copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)  See Attached							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME OF CONTRACTING OFFICER			
15B. NAME OF CONTRACTOR/OFFEROR		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
BY _____ (Signature of person authorized to sign)				BY _____ (Signature of Contracting Officer)			

A. ACKNOWLEDGEMENT OF AMENDMENTS: ALL OFFERORS MUST ACKNOWLEDGE RECEIPT AND ACCEPTANCE OF ALL AMENDMENTS TO THE SOLICITATION. YOU MAY DO THIS BY SIGNING (BLOCKS 15 A, B AND C OF STANDARD FORM 30) AND RETURNING THE AMENDMENT OR BY WRITTEN ACKNOWLEDGEMENT OF RECEIPT AND ACCEPTANCE AS PART OF THE PROPOSAL SUBMISSION PACKAGE. ALSO, PLEASE BE CERTAIN TO IDENTIFY ANY EXCEPTIONS TO THE SOLICITATION'S TERMS AND CONDITIONS.

B. REMOVE LINE ITEMS 201-431, 201-432, 201-433, 203-431, 203-432, AND 203-433 IN THEIR ENTIRETY. THEY WILL BE RESOLICITATED ON SP0600-02-R-0053.

C. THE SOLICITATION CLOSING DATE IS EXTENDED FOR ITEMS 111-28, 111-24, 560-10, 740-52, C50-52, E74-E8, 318-13, 325-461, 446-46, 451-46, 562-08, 746-46, 825-461, C50-521, D10-08, E05-26, F38-E8, M57-28, 780-12, 780-13, 780-26, 788-13 AND 788-26 UNTIL 3:00 PM FT. BELVOIR TIME ON JULY 11, 2002. THE CLOSING IS EXTENDED FOR ONLY THESE ITEMS AND ANY SUBMISSIONS ON THESE ITEM MUST BE **IN THIS OFFICE** VIA FACSIMILE (703-767-8506) NOT LATER THAN 3:00 PM ON JULY 11, 2002. (SEE NARRATIVE BELOW FOR ADDITIONAL INFORMATION) **ALL OTHER LINE ITEMS CLOSE AS SCHEDULED AND HAVE NOT BEEN EXTENDED.**

D. WITHIN CLAUSE B19.19 ECONOMIC PRICE ADJUSTMENT (PC&S)(DESC MAR 2002) UNDER "REGION 3 PETROLEUM MARKET AREAS" CORRECT AS FOLLOWS:

INSERT THE FOLLOWING FORMULA FOR NO. 6 FUEL OIL IN MARYLAND MARKET AREA B:

**No 6 Burner Oil, 2.0% Max Sulfur**

50% Platts Low Sulfur Resid Fuel Oil NY Cargo 1.0% Max

50% Platts Hi Sulfur Resid Fuel Oil NY Cargo 3.0%

E. ADD THE COUNTY OF MONTGOMERY TO VIRGINIA MARKET AREA D.

F. ADD THE FOLLOWING CLAUSE REGARDING ETHANOL PRICE ESCALATION:

**B19.27.100 ECONOMIC PRICE ADJUSTMENT - MARKET PRICE (PC&S ETHANOL) (DESC JUN 2002)**

(a) **WARRANTIES.** The Contractor warrants that--

(1) The unit prices set forth in this contract do not include allowances for any portion of the contingency covered by this clause; and

(2) The prices to be invoiced hereunder for listed items shall be computed in accordance with the provisions of this clause.

(b) **DEFINITIONS.** As used throughout this clause, the term--

(1) **Award price** means the unit price accepted by the Government for the item of supply identified by the item number.

(2) **Base Market Price** means the industry publication, contractor's posted price or the contractor's supplier's price to be used in determining an economic price adjustment of the award price of an individual product for the market area and time period specified in this clause. The base market price is shown in paragraph g, Column V of the MARKET INDICATOR TABLE and is the price from which economic price adjustments are calculated pursuant to this clause. The contractor will propose a base market price, which is subject to review by the Government to ensure it accurately reflects market conditions.

(3) **Adjusting Market Price** means the market price in effect on the date of delivery and that will be used to determine the change from the base market price (Column V of the Table below).

(4) **Date of delivery** means--

(i) **FOR TANKER OR BARGE DELIVERIES.**

(A) **F.O.B. ORIGIN.** The date and time vessel commences loading.

(B) **F.O.B. DESTINATION.** The date and time vessel commences discharging.

(ii) **FOR ALL OTHER TYPES OF DELIVERIES.** The date product is received on a truck-by-truck basis.

(c) **PRICE ADJUSTMENTS.** Contractor's price change notification shall be submitted in writing within five (5) calendar days of such change. Any resultant price changes shall be provided via notification through contract modifications and/or postings to the DESC web page <<http://www.desc.dla.mil>> under the heading "**Doing Business with DESC**".

(1) **CHANGE IN SUPPLIER'S PRICE.** The price change notification shall include a copy of the Contractor's supplier's notice or invoice, which clearly shows the supplier's name, the increase/decrease in price or invoice price, the applicable product, and the effective date of the change.

(2) **CHANGE IN CONTRACTOR'S POSTED PRICE.** The price change notification documentation shall be sufficient to justify such change and shall include, but is not limited to, the actual supplier-published fuel prices (rack, terminal, truck, etc.) clearly annotated for the fuel type to be procured and the effective date of the price change.

(3) In the event the Contracting Officer determines the justification is insufficient to warrant such a change in the supplier's price or contractor's posted price, the Contractor will be notified within three working days of DESC's receipt of the price change notification. The Contractor shall continue performance under this contract until the situation is resolved in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract.

(4) **CHANGE IN INDUSTRY PUBLICATION PRICE.** In the event that there is a change in the industry publication price used to effect a change in base market price the Contractor will notify the Contracting Officer, in writing and include substantiating documentation.

(5) **Calculations.** The prices payable hereunder shall be determined by adjusting the award price by the same number of cents, or fraction thereof, that the base market price increases or decreases, per like unit of measure between the date shown in Column V of the Table below and the date of delivery. All arithmetical calculations, including the final adjusted unit price, shall be carried to six decimal places, truncated.

(6) **DECREASES.** If the Contractor fails to notify the Contracting Officer of any decrease in the base market price within the allotted 5-day period, such decrease shall apply to deliveries made on or after the effective date of such decrease. However, if any overpayment is made to the Contractor as a result of the Contractor's failure to give timely notice to the Contracting Officer of any decrease from the base market price, the Contractor shall be charged interest on such overpayment from the date of the overpayment to the date reimbursement is received from the Contractor for the overpayment in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract.

(7) **INCREASES.** Any increase in award price as a result of an increase in the base market price shall apply to all deliveries made on or after the date of receipt by the Contracting Officer of written notification from the Contractor of such increase in accordance with (c) above. However, no notification incorporating an increase in an award price shall be executed pursuant to this clause until the increase has been verified by the Contracting Officer.

(8) **FAILURE TO DELIVER.** Notwithstanding any other provisions of this clause, no upward adjustment shall apply to product scheduled under the contract to be delivered before the effective date of the adjustment, unless the Contractor's failure to deliver according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of paragraphs (f), Excusable Delays, and (m), Termination for Cause, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract, or is the result of an allocation made in accordance with the terms of the ALLOCATION clause of this contract, in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(9) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.** The Contractor agrees that the total increase in any award price shall not exceed 60 percent of the award price in any applicable program year (whether a single year or a multiyear program), except as provided hereafter:

(i) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with an appropriate explanation and documentation as required by the Contracting Officer.

(ii) If an actual increase in the base market price would raise an award price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill pending or future orders for such item, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(d) **REVISION OF MARKET PRICE INDICATOR.** If any applicable market price indicator (industry publication price, supplier's price or contractor's posted price) is discontinued, its method of derivation is altered substantially, or the Contracting Officer determines that the market price indicator consistently and substantially failed to reflect market conditions, the parties shall mutually agree upon an appropriate and comparable substitute and the contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS, clause of this contract.

(e) **EXAMINATION OF RECORDS.** The Contractor agrees that the Contracting Officer or designated representatives shall have the right to examine the Contractor's books, records, documents, and other data the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this clause.

(f) **FINAL INVOICE.** The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this clause.

(g)

#### MARKET INDICATOR TABLE

I	II	III	IV	V
		If company - name of product; If publication - heading under which market		Base market price as of
	Name of company/industry	price is published	Location where market price	(base mkt. date)
<u>Item no.</u>	<u>publication</u>	<u>and name of product</u>	<u>is applicable</u>	<u>(excludes all taxes)</u>

#### NOTE TO OFFERORS: INSERT PROPOSED MARKET INDICATOR

(DESC 52.216-9FW5)

G. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED